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10/528,515	10/26/2005	Ian E Kibblewhite	LOAD2 US	4336

7590 12/05/2007  
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EXAMINER
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DUNLAP, JONATHAN M

ART UNIT	PAPER NUMBER
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2855

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12/05/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/528,515

Applicant(s)

KIBBLEWHITE ET AL.

Examiner

Jonathan Dunlap

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 19-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date November 8, 2007.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## FINAL ACTION

### *Election/Restrictions*

1. This application contains claims 19-38 drawn to an invention nonelected with traverse in the reply filed on November 8, 2007. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### *Double Patenting*

2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. **Claims 1-5, 7, 10-14 and 16** are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of **claims 1-6 and 22-27** of copending Application No. 11/344028. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-5 and 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fulmer (U.S. Patent 5,242,253)** in view of **Kibblewhite (U.S. Patent 5,131,276)**.

Considering **claim 1**, Fulmer discloses an apparatus comprising a thread-forming fastener including:

- A head **12** for engagement by a tool for applying a torque to the fastener **10** (**Figure 1; Column 2, line 67**); and
- A body portion **14** extending from the head **12** and including thread-forming portions **18** (**Figures 1-2; Column 2, line 68; Column 3, lines 7-9, lines 50-68; Column 4, lines 1-14**).

The invention by Fulmer fails to disclose an ultrasonic transducer coupled with the fastener, for making ultrasonic load measurements in the fastener.

6. However, Kibblewhite teaches an ultrasonic transducer **19** coupled with the fastener **10**, for making ultrasonic load measurements in the fastener **10** (**Figure 1; Column 7, lines 16-26; Column 8, lines 31-40**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to couple an ultrasonic transducer for load measurements to a fastener as taught by Kibblewhite in the invention by Fulmer. The motivation for doing so is found in the teachings of Kibblewhite, "the load indicating member can be formed from a bolt, rod, rivet, stud or other suitable structural element" (**Column 6, lines 15-16**).

Considering **claim 2**, Fulmer fails to disclose that the ultrasonic transducer is coupled with the head of the fastener.

7. However, Kibblewhite teaches that the ultrasonic transducer **19** is coupled with the head **13** of the fastener **10** (**Figures 1-7; Column 7, lines 18-32; Column 8, lines 31-2, lines 38-40; Column 11, lines 45-48**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to couple an ultrasonic transducer for load measurements to the head of a fastener as taught by Kibblewhite in the invention by Fulmer. The motivation for doing so is to provide a location which both electrically and mechanically connects the fastener to a tightening tool for displaying load measurements as found in the teachings of Kibblewhite, "the tightening tool may be provided with a display device for displaying ultrasonic measurement of the tensile load, stress, elongation or member identification obtained during operation" and "the head is also provided with a wrenching or tool engagement surface, such as a hexagonal wrenching surface" (**Column 6, lines 24-50; Column 7, lines 29-31**).

Considering **claim 3**, Fulmer fails to disclose that the ultrasonic transducer is permanently attached to the fastener.

8. However, Kibblewhite teaches that the ultrasonic transducer **19** is permanently attached to the fastener **10** (**Column 3, lines 5-9**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to permanently couple an ultrasonic transducer to a fastener as taught by Kibblewhite in the invention by Fulmer. The motivation for doing so is found in the teachings of Kibblewhite, "to provide accurate tightening information during assembly, which can not come loose and cause an obstruction in or damage to a critical assembly" (**Column 3, lines 5-9**).

Considering **claim 4**, Fulmer fails to disclose that the ultrasonic transducer is comprised of a piezoelectric polymer film permanently attached to the head of the fastener.

9. However, Kibblewhite teaches that the ultrasonic transducer **19** is comprised of a piezoelectric polymer film permanently attached to the head **13** of the fastener **10** (**Figure 2; Column 7, lines 42-48; Column 9, lines 58-61**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a piezoelectric polymer within an ultrasonic transducer as taught by Kibblewhite in the invention by Fulmer. The motivation for doing so is found in the teachings of Kibblewhite, "piezoelectric polymer materials...are, in theory, slightly more efficient than the materials of the present invention when used in ultrasonic pulse-echo applications" (**Column 10, lines 25-28**).

Considering **claim 5**, Fulmer fails to disclose that the ultrasonic transducer is comprised of an oriented piezoelectric thin film, vapor deposited directly on the head of the fastener.

10. However, Kibblewhite teaches that the ultrasonic transducer **19** is comprised of an oriented piezoelectric thin film, vapor deposited directly on the head **13** of the fastener **10** (**Column 4, lines 10-16**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize an oriented piezoelectric thin film, vapor deposited directly on the head of a fastener as taught by Kibblewhite in the invention by Fulmer. The motivation for doing so is found in the teachings of Kibblewhite, "the crystal inclination angle of piezoelectric oriented films can be controlled...through the control of inclination angle, the control of the fractional components of longitudinal and transverse ultrasonic waves," is feasible and through "the use of both longitudinal and transverse waves...the measurement of stress in a member without taking a zero load measurement," is permitted (**Column 9, lines 9-24**).

Considering **claim 7**, Fulmer fails to disclose that the ultrasonic transducer is temporarily attached to the fastener.

11. However, Kibblewhite teaches that the ultrasonic transducer is temporarily attached to the fastener (**Column 1, lines 36-45**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a temporarily attached ultrasonic transducer with a fastener as taught by Kibblewhite in the invention by Fulmer. The motivation for

doing so is found in the teachings of Kibblewhite, "the prior art teachings include the notion of combining the measuring device with a tightening tool so that the information gained from measuring the elongation of the bolt can be used for determining when to shut off the tool" (**Column 1, lines 46-52**).

12. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Fulmer (U.S. Patent 5,242,253)** in view of **Kibblewhite (U.S. Patent 5,131,276)** and further in view of **Sanduja et al. (U.S. Patent 6,726,960)**.

The invention by Fulmer, as modified by Kibblewhite, fails to disclose that the ultrasonic transducer is chemically grafted on the head of the fastener.

13. However, Sanduja et al. teaches that ultrasonic transducer is chemically grafted on the head of the fastener (**Column 1, lines 9-15; Column 2, lines 45-56**).

Therefore, it would have been obvious to one skilled in the art of bonding at the time the invention was made to chemically graft an ultrasonic transducer on the head of a fastener as taught by Sanduja in the invention by Fulmer, as modified by Kibblewhite. The motivation for doing so is found in both the teachings of Kibblewhite and Sanduja. According to Kibblewhite, "what is secondly desired is such ultrasonic transducer permanently attached to a fastener which can withstand the operating environment" (**Column 3, lines 10-12**). According to Sanduja, "grafting a protective coating onto metallic parts...not only protects the part from corrosion and other adverse effects of the environmental conditions of temperature...but also imparts an excellent degree of abrasion resistance." (**Column 1, lines 8-15**). Still further, according to Sanduja, "this



process, using the composition specified, will have general utility in a number of applications...the superior bonding achieved will confer improved corrosion" (**Column 2, lines 52-55**).

14. **Claims 8-9** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fulmer (U.S. Patent 5,242,253)** in view of **Kibblewhite (U.S. Patent 5,131,276)** and further in view of **Hoffmeister et al. (WO 00/63565)**.

The invention by Fulmer, as modified by Kibblewhite, fails to teach that the ultrasonic transducer further includes an information storage medium applied to the ultrasonic transducer and that the information storage medium is a bar code.

However, Hoffmeister teaches that the ultrasonic transducer further includes an information storage medium 4 applied to the ultrasonic transducer and that the information storage medium is a bar code (**Figure 1; Page 2, lines 24-36; Page 3, lines 1-35; Page 4, lines 1-14**).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to use a bar code as an information storage medium, applied to a ultrasonic transducer as taught by Hoffmeister in the invention by Fulmer, as modified by Kibblewhite. The motivation for doing so is to prevent the use of low-quality counterfeit fasteners, as taught by Hoffmeister (**Page 4, lines 16-28**).

15. **Claims 10-14 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fulmer (U.S. Patent 5,242,253)** in view of **Kibblewhite (U.S. Patent 5,131,276)**.

Considering **claim 1**, Fulmer discloses a method of making a load indicating, thread-forming fastener, comprising the steps of:

- Providing a fastener having:
  - A first end **12** including a surface for receiving an ultrasonic transducer, for making ultrasonic load measurements in the fastener **10**;
  - A shank **14** extending from the first end **12** and including thread-forming portions **18** for tapping a hole, and
  - A second end, opposite the first end and including a surface for reflecting an ultrasonic wave back to the first end **12** (**Figures 1-2; Column 2, lines 67-68; Column 3, lines 7-9, lines 50-68; Column 4, lines 1-14**).

The invention by Fulmer fails to disclose attaching an ultrasonic transducer to the first end of the fastener.

16. However, Kibblewhite teaches attaching an ultrasonic transducer **19** to the first end **13** of the fastener **10** (**Figure 1; Column 7, lines 16-26; Column 8, lines 31-40**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to couple an ultrasonic transducer to a first end of a fastener as taught by Kibblewhite in the invention by Fulmer. The motivation for doing so is found in the teachings of Kibblewhite, "the load indicating member can be formed from a bolt, rod, rivet, stud or other suitable structural element" (**Column 6, lines 15-16**).

Considering **claim 11**, Fulmer fails to disclose attaching the ultrasonic transducer to a head associated with the first end of the thread forming fastener, for engagement by a tool for applying a torque to the fastener.

17. However, Kibblewhite teaches attaching the ultrasonic transducer to a head **13** associated with the first end of the thread forming fastener, for engagement by a tool for applying a torque to the fastener (**Figures 1-7; Column 7, lines 18-32; Column 8, lines 31-2, lines 38-40; Column 11, lines 45-48**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to couple an ultrasonic transducer for load measurements to the head of a fastener as taught by Kibblewhite in the invention by Fulmer. The motivation for doing so is to provide a location which both electrically and mechanically connects the fastener to a tightening tool for displaying load measurements as found in the teachings of Kibblewhite, "the tightening tool may be provided with a display device fore displaying ultrasonic measurement of the tensile load, stress, elongation or member identification obtained during operation" and "the head is also provided with a wrenching or tool engagement surface, such as a hexagonal wrenching surface" (**Column 6, lines 24-50; Column 7, lines 29-31**).

Considering **claim 12**, Fulmer fails to disclose permanently attaching the ultrasonic transducer to the fastener.

However, Kibblewhite teaches that the ultrasonic transducer **19** is permanently attached to the fastener **10** (**Column 3, lines 5-9**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to permanently couple an ultrasonic transducer to a fastener as taught by Kibblewhite in the invention by Fulmer. The motivation for doing so is found in the teachings of Kibblewhite, "to provide accurate tightening information during assembly, which can not come loose and cause an obstruction in or damage to a critical assembly" (**Column 3, lines 5-9**).

Considering **claim 13**, Fulmer fails to disclose permanently attaching an ultrasonic transducer comprised of a piezoelectric polymer film to the first end of the fastener.

However, Kibblewhite teaches permanently attaching an ultrasonic transducer **19** comprised of a piezoelectric polymer film to the first end **13** of the fastener **10** (**Figure 2; Column 7, lines 42-48; Column 9, lines 58-61**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a piezoelectric polymer within an ultrasonic transducer as taught by Kibblewhite in the invention by Fulmer. The motivation for doing so is found in the teachings of Kibblewhite, "piezoelectric polymer materials... are, in theory, slightly more efficient than the materials of the present invention when used in ultrasonic pulse-echo applications" (**Column 10, lines 25-28**).

Considering **claim 14**, Fulmer fails to disclose vapor depositing an ultrasonic transducer comprised of an oriented piezoelectric thin film directly onto the first end of the fastener.

18. However, Kibblewhite teaches that the ultrasonic transducer **19** is comprised of an oriented piezoelectric thin film, vapor deposited directly on the head **13** of the fastener **10** (**Column 4, lines 10-16**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize an oriented piezoelectric thin film, vapor deposited directly on the head of a fastener as taught by Kibblewhite in the invention by Fulmer. The motivation for doing so is found in the teachings of Kibblewhite, "the crystal inclination angle of piezoelectric oriented films can be controlled...through the control of inclination angle, the control of the fractional components of longitudinal and transverse ultrasonic waves," is feasible and through "the use of both longitudinal and transverse waves...the measurement of stress in a member without taking a zero load measurement," is permitted (**Column 9, lines 9-24**).

Considering **claim 16**, Fulmer fails to disclose temporarily attaching the ultrasonic transducer to the fastener.

19. However, Kibblewhite teaches that the ultrasonic transducer is temporarily attached to the fastener (**Column 1, lines 36-45**).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a temporarily attached ultrasonic transducer with a fastener as taught by Kibblewhite in the invention by Fulmer. The motivation for doing so is found in the teachings of Kibblewhite, "the prior art teachings include the notion of combining the measuring device with a tightening tool so that the information

gained from measuring the elongation of the bolt can be used for determining when to shut off the tool" (**Column 1, lines 46-52**).

20. **Claim 15** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Fulmer (U.S. Patent 5,242,253)** in view of **Kibblewhite (U.S. Patent 5,131,276)** and further in view of **Sanduja et al. (U.S. Patent 6,726,960)**.

The invention by Fulmer, as modified by Kibblewhite, fails to disclose chemically grafting an ultrasonic transducer onto the first end of the fastener

21. However, Sanduja et al. teaches chemically grafting an ultrasonic transducer onto the first end of the fastener (**Column 1, lines 9-15; Column 2, lines 45-56**).

Therefore, it would have been obvious to one skilled in the art of bonding at the time the invention was made to chemically graft an ultrasonic transducer on the head of a fastener as taught by Sanduja in the invention by Fulmer, as modified by Kibblewhite. The motivation for doing so is found in both the teachings of Kibblewhite and Sanduja. According to Kibblewhite, "what is secondly desired is such ultrasonic transducer permanently attached to a fastener which can withstand the operating environment" (**Column 3, lines 10-12**). According to Sanduja, "grafting a protective coating onto metallic parts...not only protects the part from corrosion and other adverse effects of the environmental conditions of temperature...but also imparts an excellent degree of abrasion resistance." (**Column 1, lines 8-15**). Still further, according to Sanduja, "this process, using the composition specified, will have general utility in a number of

applications...the superior bonding achieved will confer improved corrosion" (**Column 2, lines 52-55**).

22. **Claims 17-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fulmer (U.S. Patent 5,242,253)** in view of **Kibblewhite (U.S. Patent 5,131,276)** and further in view of **Hoffmeister et al. (WO 00/63565)**.

The invention by Fulmer, as modified by Kibblewhite, fails to teach applying an information storage medium to the ultrasonic transducer, wherein the information storage medium includes markings corresponding to data associated with the fastener and applying a bar code to the ultrasonic transducer.

23. However, Hoffmeister teaches that the ultrasonic transducer further includes an information storage medium **4** applied to the ultrasonic transducer and that the information storage medium is a bar code (**Figure 1; Page 2, lines 24-36; Page 3, lines 1-35; Page 4, lines 1-14**).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to use a bar code as an information storage medium, applied to a ultrasonic transducer as taught by Hoffmeister in the invention by Fulmer, as modified by Kibblewhite. The motivation for doing so is to prevent the use of low-quality counterfeit fasteners, as taught by Hoffmeister (**Page 4, lines 16-28**).

***Response to Amendment***

24. The declaration under 37 CFR 1.132 filed November 8, 2007 is insufficient to overcome the rejection of claims 1-18 based upon 35 U.S.C. 103(a), **Fulmer (U.S. Patent 5,242,253)** in view of **Kibblewhite (U.S. Patent 5,131,276)** and further in view of **Sanduja et al. (U.S. Patent 6,726,960)** or **Hoffmeister et al. (WO 00/63565)** as set forth in the last Office action because: The declaration states that it would have been unobvious to combine the teaches of Fulmer with that of Kibblewhite based on an inaccuracy in ultrasonic measurements and the inability of a person of ordinary skill in the art to construct the device to ensure accurate measurements. These features appear to be shown in the withdrawn claims of 19 and 29. The inaccuracy encountered during the use of the device, as declared by Kibblewhite, would not, in the Examiner's position be enough to prevent one of ordinary skill in the art from pursuing the combination of the teachings of Fulmer and Kibblewhite.

***Response to Arguments***

Applicant's arguments filed November 8, 2007 have been fully considered but they are not persuasive.

**Applicant contends** that the invention by Fulmer is not a suitable fastener for use in the invention by Kibblewhite.

**The Examiner** takes the position for that Applicant has argued features which are not claimed. Claims 19 and 29, withdrawn, recite the limitation of accurately monitoring the load. The apparatus as claimed in claims 1 and 9 fails to mention



anything regarding thermal expansion compensation, critical joints, or any other feature which Applicant has provided evidence of the contradiction of combination. Fulmer teaches a suitable fastener to be combined with the invention of Kibblewhite to satisfy the claim language as currently presented as cited in the rejections above.

**In response to Applicant's argument** that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

**Applicant contends** that one of ordinary skill in the art would not have combined the elements of Fulmer and Kibblewhite because they would not have known how to directly measure and compensate for the average temperature increase due to heat generated during thread formation using the fastener of Fulmer.

**The Examiner** takes the position that a person of ordinary skill in the art would have recognized that the results of the combination were predictable because a person of ordinary skill would have seen a 5%-20% error in measurements as declared by Kibblewhite. Since the invention is not concerned with correcting, identifying or monitoring these errors, a person of ordinary skill would find that the combination, without further modification would predictably be inaccurate.

**Applicant contends** that Kibblewhite teaches away from the combination merely because it fails to mention features of the invention which are not claimed.

**The Examiner** takes the position that the Kibblewhite does not teach away from the combination of the claimed invention as noted in the rejection above.

**In response to Applicant's arguments** against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

**The Examiner** relied upon WO 00/63565 as published in German on October 26, 2000. An English translation has been provided.

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Application/Control Number:  
10/528,515  
Art Unit: 2855

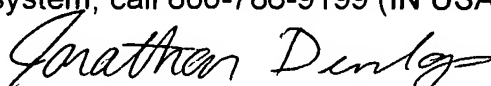
Page 18

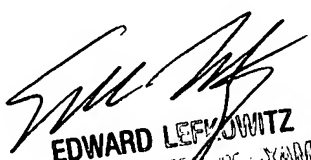
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Dunlap whose telephone number is (571) 270-1335. The examiner can normally be reached on M-F 8-5 with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jonathan Dunlap  
Examiner  
AU 2855  
December 3, 2007

  
EDWARD LEFKOWITZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800